

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

EAST RIVER CAPITAL, INC. and ERC ACCESS, INC.,

Plaintiffs,

v.

VLD ACCESS, INC., STEPHEN DUNN, ROUTE
CONSULTANT, INC., and RUMMY INC.,

Defendants.

Case No. 19-cv-1398-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on its April 1, 2021, order for plaintiffs East River Capital, Inc. and ERC Access, Inc. to show cause why the Court should not dismiss their claim against defendant Route Consultant, Inc. for failure to prosecute (Doc. 55). On July 15, 2020, the Court granted Route Consultant's motion to compel arbitration and ordered the plaintiffs to file a status report in September 2020, and every March and September thereafter until arbitration was complete, advising the Court of the status of arbitration proceedings between the parties (Doc. 49). The plaintiffs filed the required status report in September 2020 (Doc. 52), but not in March 2021. On April 1, 2021, the Court ordered the plaintiffs to show cause on or before April 16, 2021, why this failure should not result in dismissal of their claims against Route Consultant pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute. The plaintiffs did not respond to the show cause order.

In light of the plaintiffs' failure to file the March 2021 status report as ordered and failure to respond to the order to show cause, it is apparent that they no longer wish to prosecute the remaining claim in this action. Accordingly, the Court **DISMISSES** the plaintiffs' claim against Route Consultant **without prejudice** to pursuing that claim in arbitration as required by the Consulting Agreement and **DIRECTS** the Clerk of Court to enter judgment accordingly.

IT IS SO ORDERED.

DATED: April 20, 2021

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE